

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HUAWEI TECHNOLOGIES, CO, LTD, et al.,

Plaintiffs,

v.

SAMSUNG ELECTRONICS CO, LTD., et al.,

Defendants.

Case No. [3:16-cv-02787-WHO](#)

ORDER ON AMENDED MOTIONS TO SEAL

Re: Dkt. Nos. 457, 458

On January 30, 2019, I issued an Order on numerous motions to seal that remained pending in this case. Order on Pending Motions to Seal (“1/30/19 Order”) [Dkt. No. 446]. I denied some of the parties’ requests because they were overbroad and others because they were insufficiently justified under the Ninth Circuit’s compelling reasons standard. *See generally id.* I gave the parties leave to amend, and they submitted their amended requests on February 19, 2019. Samsung’s Amended Motion [Dkt. No. 457]; Huawei’s Amended Motion [Dkt. No. 458]. I now address those amendments.

The parties rely on some of the same justifications I addressed in my prior Order, including source code, confidential product information, licensing information, and sales and financial data. I incorporate those justifications by reference. *See* 1/30/19 Order 2–3, 13, 19. In their amendments, the parties reduced the scope of requests I denied as overbroad. They also submitted declarations from third parties in support of requests I denied as insufficiently justified. The latter requests fall into two categories. First, Huawei and Samsung seek to seal information from research reports they purchased from Signals Research and ABI Research. The chief operating

United States District Court
Northern District of California

1 competitive standing because customers will no longer have to pay to access it. Declaration of
 2 Edward Rerisi [Dkt. No. 457-19] ¶¶ 5–6; *see also* Declaration of Xiaowu Zhang [Dkt. No. 458-2]
 3 ¶ 8. Second, InterDigital, Inc. seeks to seal confidential information including internal practices,
 4 licensing strategies, and arbitration information.¹ Declaration of Ranae McElvaine [Dkt. No. 458-
 5 1] ¶¶ 7–8. Public disclosure would cause competitive harm to its licensing business. *Id.* ¶ 7.

6 These declarations are sufficient to cure the deficiencies I noted in my prior Order. But as
 7 I wrote there, just because I agree to seal information at this juncture does not necessarily mean it
 8 will remain sealable at trial, particularly if it is key to the public’s ability to understand the case
 9 and the parties’ respective arguments. 1/30/19 Order 2 n.1. The parties’ requests and my orders
 10 are as follows:

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 327-26 (Peterson Decl., Exh. 3)	Huawei: yellow-highlighted portions (page 13, paragraph 14)	License counterparty name	GRANTED
Dkt. 331-6 Exhibit 1 (resubmitted at Dkt. 422-1) (expert report)	Huawei: yellow-highlighted portions on pages 5, 9-11, 13-16, 18, 44, 45, 47-49, 53, 54, 57, 60-62, 66, 77, 78, 81, 89, 90, 97, 98, Schedules 21.2-21.5, and in Appendix D	Licensing information, sales and financial information, proprietary data	GRANTED
Dkt. 331-8 Exhibit 2 (resubmitted at Dkt. 422-2) (expert report)	Huawei, Samsung: green-highlighted portions on pages 38-39 and footnote 87	Licensing information	GRANTED
	Samsung: blue-highlighted portions on pages 38-39	Licensing information	GRANTED
Dkt. 331-12 Exhibit 4 (resubmitted at Dkt. 422-4) (expert report)	Huawei: yellow-highlighted portions on pages 11-12, and 27	Licensing information, sales and financial information	GRANTED

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

¹ Huawei asserts that InterDigital’s requests are associated with a motion to strike an expert report and thus are subject to the good cause standard. *See* Huawei’s Amended Motion 5; *United States v. Celgene Corp.*, No. CV 10-3165 GHK, 2016 WL 6609375, at *4 (C.D. Cal. Aug. 23, 2016) (applying the good cause standard to a motion to seal associated with a motion to strike portions of

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 331-18 Exhibit 7 (resubmitted at Dkt. 422-6) (expert report)	Huawei: yellow-highlighted portions on pages 34-37, 113-119, and 121-122	Signals Research	GRANTED
Dkt. 331-20 Exhibit 8 (resubmitted at Dkt. 422-7) (expert report)	Huawei: yellow-highlighted portions on pages 62-71, and 75 Huawei, Samsung: green-highlighted portions of paragraphs 163, 164, 179	Licensing information Licensing information	GRANTED
Dkt. 331-23 Exhibit 10	Samsung: entire document	ABI Research Report	GRANTED
Dkt. 347-14 at 54 Exhibit 5 (deposition)	Samsung: red boxes on pages 204- 209	Royalty rates	GRANTED
At 89 Exhibit 10 (expert report)	Interdigital: second and third sentences of paragraph 17	Arbitration information	GRANTED
At 101 Exhibit 11 (expert report)	Samsung: red boxes on page 35	Information about the parties' investments in research and design	GRANTED
Dkt. 347-16 Szczepanik Declaration			
At page 19: Exhibits 4-9 (deposition)	Samsung: blue highlighted portions of Exhibit 4 (pages 25, 28-33), Exhibit 5 (pages 22-24, 29, 100-113, 115- 130, 188-190), Exhibit 6 (pages 24, 25, 27, 28, 33, 34, 37, 38, 87-89, 102, 107, 108, 111-113, 115- 121, 128-135, 139-142, 168-175, 181-183, 191, 192, 197-199, 204-208, 211-213, 217-220, 226, 227, 231-236, 239-245), Exhibit 7 (entire exhibit), Exhibit 8 (entire exhibit), Exhibit 9 (pages 33-38, 49, 51-55, 57-65, 67-73, 75-82, 89-95, 99-103)	Some discussion of confidential features	GRANTED
At page 281 Exhibit 16 (deposition)	Samsung: blue highlighted portions on pages 73-76, 78, 80, 81, 83-85, 87-90, 92-94, 105	Some references to source code and confidential products	GRANTED

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

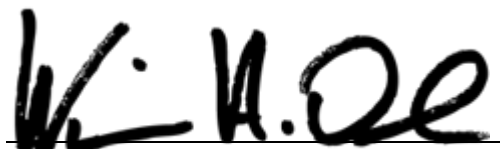
United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 357-4 Samsung's Opposition to Huawei's MSJ (corrected at Dkt. 362)	Samsung: blue highlighted portion on page 9, line 24	Sales and financial information	GRANTED
Dkt. 357-8 Exhibit 2 (deposition)	Huawei: yellow-highlighted portions on pages 137- 138	Licensing information	GRANTED
Dkt. 357-12 Exhibit 4 (deposition)	Huawei: yellow-highlighted portions on page 171	Licensing information	GRANTED
Dkt. 378-10 Exhibit 3 (expert report)	Huawei, Samsung: Yellow- highlighted portions on pages 53, 92, 101, and in Appendix D Samsung: Blue-highlighted portions on page 53, footnote 195	Licensing information, sales and financial information, proprietary data Sales and financial information, proprietary data	GRANTED

IT IS SO ORDERED.

Dated: February 25, 2019



William H. Orrick
United States District Judge